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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/539,926	06/14/2005	Sadamu Ishidu	20239/0202616-US0	8405
7278 7590 04/20/2007 DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			EXAMINER CRANE, SARA W	
			ART UNIT	PAPER NUMBER
			2811	
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		04/20/2007	PAPER	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/539,926	<b>Applicant(s)</b> ISHIDU ET AL.	
	<b>Examiner</b> Sara W. Crane	<b>Art Unit</b> 2811	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 January 2007.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1 and 4-25 is/are pending in the application.
- 4a) Of the above claim(s) 8-18 and 23-25 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 4-7 and 19-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Applicant's election with traverse of Group I claims 1, 4-7, and 19-22 in the reply filed on 23 January 2007 is acknowledged. The traversal is on the ground(s) that "claims 8 and 23 do not add additional elements to a claim 1 subcombination, but rather more specifically claim elements that are already broadly claimed in claim 1." This is not found persuasive because claim 8 recites a cavity, and claim 1 does not recite a cavity, so claim 8 adds the specific claim element of a cavity, not included in claim 1. In addition, claim 23 recites that the ratio of H/Y is greater than or equal to 0.4. Claim 1 does not recite anything at all about the ratio of H/Y, so claim 23 adds the specific claim element of a ratio of H/Y greater than or equal to 0.4. These features of claims 8 and 23 were each set forth in the requirement for election of 3 January 2007, and Applicant's response of 23 January 2007 does not discuss either the cavity or the ratio of H/Y. Instead, Applicant relies upon the assertion that neither of claims 8 or 19 recite anything that is not already claimed in claim 1, which does not appear to be the case.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

The amendment to the specification filed 14 July 2005 is objected to under 35 U.S.C. 132(a) because it introduces new matter into the disclosure. 35 U.S.C. 132(a) states that no amendment shall introduce new matter into the disclosure of the invention. The added material which is not supported by the original disclosure is as follows:

The specification as originally filed states that the "ratio of L/H is 0.3 or greater. Preferably ratio L/H is 0.45 to 1.5, and more preferably it is between 0.5 and 1.25." The amendment changes "L/H" to "H/L." The ratio of H/L between 0.5 and 1.25, and preferably 0.45 to 1.5, does not appear to be disclosed in the specification as originally filed, and would therefore be new matter.

Applicant is required to cancel the new matter in the reply to this Office Action.

***Claim Rejections - 35 USC § 112***

Claims 1, 4-7 and 19-22 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In each of the independent claims 1 and 19, the claims now recite that the "ratio of H/L is greater than 0.3 but less than 1.25." As noted above, there does not appear to be support in the specification as originally filed for limiting the range of H/L to less than 1.25.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to S. Crane, whose telephone number is (571) 272-1652.

The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Art Unit: 2811

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Sara W. Crane  
Primary Examiner  
Art Unit 2811